

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NAVITAS KY)	CASE NO.
NG, LLC FOR AN ALTERNATE RATE)	2019-00430
ADJUSTMENT)	

ORDER

On January 17, 2020, Navitas KY NG, LLC (Navitas KY) filed¹ an application requesting a rate adjustment in the form of a surcharge to pass on increased wholesale gas costs authorized by the Federal Energy Regulatory Commission (FERC) in Docket No. PR17-54-000 (FERC Docket). Navitas KY requested a surcharge under the alternative rate adjustment regulatory scheme set forth in 807 KAR 5:076. The use of an alternative rate adjustment process for the sole purpose of establishing a surcharge is not typical, but given the extraordinary circumstances of this proceeding and pursuant to Commission precedent in a matter with similar circumstances,² the Commission found that it was reasonable to conduct a review that is limited in scope to determine a fair, just, and reasonable surcharge rate based on the gas transportation costs due to Navitas KY's gas transportation service provider for the period at issue.³

¹ Navitas KY submitted an application on November 27, 2019, that was rejected for filing due to filing deficiencies. By Order entered December 12, 2019, the Commission granted Navitas KY a deviation from certain filing requirements that were inapplicable to the nature of this proceeding. Navitas KY subsequently cured the filing deficiencies and its application was deemed filed on January 17, 2020.

² See Case No. 1999-00155, *Application of Johnson County Gas Company, Inc. for a Rate Adjustment Pursuant to the Alternative Rate Filing Procedure for Small Utilities* (Ky. PSC Sept. 1, 1999).

³ Order (Ky. PSC Dec. 9, 2019) at 2–3.

There are no intervenors in this proceeding. B&W Pipeline, LLC (B&W), the interstate pipeline whose rates were increased in the FERC Docket, filed multiple public comments. Navitas KY responded to four rounds of discovery. On April 28, 2020, Navitas KY filed notice that it waived a hearing and requested that the matter be submitted for a decision based upon the written record. This matter now stands submitted for a decision based upon the written record.

BACKGROUND

Navitas KY is a Kentucky limited liability company that distributes and sells natural gas to approximately 128 residential, agricultural, and industrial customers in Albany and Clinton County, Kentucky.⁴

Located in Tennessee, B&W currently supplies transportation services of natural gas to Navitas KY from the Spectra East Tennessee Pipeline to Navitas KY's customers located in Tennessee and Kentucky. On March 10, 2016, the Tennessee Public Utility Commission (TPUC), in Docket No. 15-00042 (TN Rate Case), ordered rates to be paid by Navitas KY to B&W that consisted of a fixed monthly charge of \$13,897.67 and a volumetric charge of \$0.30814 per Mcf. TPUC also issued a directive for B&W to provide a copy of said Order to FERC for review. FERC granted B&W's application on June 15, 2017, as Docket No. CP17-78-000 and on May 17, 2019, FERC entered an order authorizing B&W to charge the amount of \$2.7172 per Mcf, effective July 17, 2017, for interruptible transportation service provided on its pipeline.⁵

⁴ Annual Report of Navitas KY to the Public Service Commission for the Calendar Year Ended December 31, 2018, at 9 and 26.

⁵ Application at paragraph 16.

The instant case arises from the May 17, 2019 FERC Order granting B&W the rate increase effective retroactively to July 17, 2017.⁶ B&W is seeking collection of amounts due for gas transportation service between July 17, 2017, and January 31, 2019 (Stub Period).⁷ Navitas KY requested a surcharge to pass on the difference between the FERC-approved rate and the actual rate that Navitas KY paid to B&W for gas transportation service during the Stub Period.

CALCULATION OF SURCHARGE

On November 8, 2019, Navitas KY received a letter from B&W stating that Navitas KY must pay the FERC-approved gas transportation rate effective July 17, 2017, less Kentucky's pro rata portion of a monthly charge of \$13,897.67 already paid on behalf of the Navitas KY systems in Kentucky and Tennessee.⁸ Although the letter specified that Navitas KY owed B&W for gas consumed in Kentucky since July 17, 2017, at the rate of \$2.7172 per Mcf, the letter did not provide a discrete dollar amount that Navitas KY owed to B&W.⁹

In the application, Navitas KY requested additional revenues of \$230,000.¹⁰ Navitas KY asserted that the calculated arrearage for the Stub Period was \$191,545.¹¹ Navitas KY indicated that this total included the removal of Kentucky's pro rata portion of

⁶ The effective date of the FERC order is the date that B&W filed its rate application with FERC.

⁷ See Application at paragraph 27. Navitas KY's states that, pursuant to its gas cost adjustment (GCA) filings with the Commission, it has passed on the FERC-approved rate through its Gas Cost Adjustment (GCA) since February 2019.

⁸ Application, Exhibit E.

⁹ *Id.*

¹⁰ Application, ARF Form-1 at paragraph 11.

¹¹ *Id.* at paragraph 31.

the monthly charge, or approximately \$12,500 per month.¹² The additional revenues also included a reduction of \$53,646.60.¹³ According to Navitas KY, this is the difference between the TN Rate Case authorized rate and the amount actually charged by B&W. Navitas KY's application did not include sufficient support for the surcharge revenue requirements, and it was not clear based on the spreadsheet provided what amount was actually due to B&W for the period at issue.

On January 17, 2020, in response to the December 9, 2019 Commission Order rejecting the application for filing and ordering certain documents to cure the indicated filing deficiencies, Navitas KY filed a supplemental filing indicating the maximum amount to be collected for the Stub Period was \$229,607.53.¹⁴ Navitas KY proposed a temporary increase of \$0.09490 per Ccf on all customer classes to recover the amount for three years and provided revised supporting documentation.¹⁵

B&W filed comments into the record on February 7, 2020, in response to Navitas KY's January 7, 2020 supplemental filing. B&W claimed that Navitas KY's calculation of the arrearage contained three errors:

- Navitas KY calculated the impact of the FERC rate for the entire month instead of the partial month of July 2017, which overstated the B&W gas transportation charge.
- Navitas KY used the volume of gas it sold to Kentucky customers and not the volume delivered by B&W to the Albany, Kentucky city gate, thus understating the total amount of gas transported by B&W as well as the gas transportation charge.

¹² *Id.* at paragraph 26.

¹³ *Id.* at paragraph 29.

¹⁴ Navitas KY's Supplemental Filing pursuant to Commission Order, Exhibit 2.

¹⁵ *Id.*, Exhibit G.

- Navitas KY's pro rata allocation of the monthly charge between Tennessee and Kentucky was based upon the relative sales of the two systems, and not delivered gas to the two systems. B&W contends this has the effect of over allocating Kentucky's portion of the monthly charge, and inappropriately increasing the credit due to Kentucky customers.¹⁶

B&W included supporting calculations, and stated that the reconciliation of errors would impact the total owed by an amount of up to \$20,000. B&W also noted that the total did not include any interest charges or any billing disputes raised by Navitas KY implying that it actually owes B&W less.

DISCUSSION

B&W's rates are regulated by FERC and thus are outside the jurisdiction of this Commission. Furthermore, B&W has a FERC-approved rate for gas transportation that it may charge to Navitas KY retroactively, pursuant to a FERC order. Therefore, the task for this Commission is not a determination whether B&W is owed for the arrearage that occurred during the Stub Period, but to determine the amount of the arrearage, how it should be recovered from Navitas KY's customers, and over what time period the recovery should occur.

The Commission finds that the calculation of the amount owed by Navitas KY to B&W should reflect the July 17, 2017 effective date of the rate adjustment pursuant to the FERC order because B&W's interstate gas transportation rates are within the sole jurisdiction of FERC and the Commission does not have statutory authority to override

¹⁶ B&W stated however, if the allocation method used by Navitas KY in its calculation is also used to calculate its GCA rates, then the amount owed to B&W by Kentucky customers is appropriately reduced by approximately \$13,000.

FERC's decision in this matter. Because daily volumes are not available from B&W, which bills monthly, the amount owed at the FERC rate for the balance of July 2017, should be prorated for the 14 days in July that the charge was in effect.

With regard to the volumes that should be used in calculating the amount owed to B&W for gas transportation service, the Commission finds that the volume transported and metered at the Albany, Kentucky city gate, and not Navitas KY's customer sales volume, should be used. The volume of gas delivered to the Albany, Kentucky city gate is presumed to be the amount Navitas KY received on behalf of its customers. Differences between volumes delivered and sold can be due to customer meter errors, theft, or line losses on Navitas KY's system.¹⁷ Moreover, it is standard for transporting utilities to charge their rates based on the volume delivered.

Regarding the calculation of the credit resulting from the monthly amounts already paid by Navitas for each month of the Stub Period, the Commission finds Navitas KY's allocation method is reasonable and consistent with the method it has used and the Commission has accepted in its quarterly GCA filings.

Based upon the above, the Commission finds that the total amount owed to B&W by Navitas KY is \$233,337.66.

<u>Credit for amounts paid by Navitas KY to B&W 7/17/17 through 1/31/19</u>	
\$(232,304.99)	Sum of August 2017 through January 2019 credits ¹⁸
\$ (5,819.46)	July 2017 prorated for 14 days ¹⁹
\$(238,124.45)	Total Credit

Amount owed

¹⁷ B&W's June 1, 2020 public comment contains meter test reports supporting the meters' accuracy.

¹⁸ Navitas KY's Supplemental Filing, Exhibit G, TRA pro rata share paid.

¹⁹ *Id.*, July 17 pro rata share paid ÷ 31 * 14.

\$ 473,462.11	B&W billing for deliveries at the New Albany city gate ²⁰
\$(238,124.45)	Credit
\$ 235,337.66	Amount owed

The Commission recognizes that B&W is subject to FERC jurisdiction and that its charges to Navitas KY are outside of this Commission’s control. However, this is a large amount to be repaid by a small utility, and it is not reasonable to overly burden Navitas KY’s customers by adding a correspondingly large surcharge to the rates they are already paying for gas transportation. Therefore, the Commission finds the amount owed should be returned via a surcharge that is initially calculated to correspond to a 10 year period. Based on the average annual sales for the years 2015–2019, sales for a 10 year period is estimated to be 980,302 Mcf, resulting in a surcharge of \$0.24 per Mcf.

	<u>Annual Sales (Mcf)</u> ²¹
2015	99,049
2016	84,424
2017	79,906
2018	115,458
2019	111,012
Average	97,970
10 year total	979,698
Amount Owed	\$235,337.66
Surcharge	\$0.24/Mcf

For a residential customer with average monthly usage of 6.2 Mcf, the average monthly bill will increase 34.07 percent or \$1.49, from \$36.64 to \$38.13.

The Commission notes that this relatively low rate and lengthy period is approved pending B&W and Navitas KY entering into negotiations regarding B&W’s FERC-approved maximum transportation rate, and reporting to the Commission any agreement they might be able to reach to lower the rate. If in fact the parties agree to a lower

²⁰ B&W’s February 7, 2020 Public Comment, Exhibit A.

²¹ Annual sales are from the Annual Reports of Navitas KY to the Public Service Commission.

negotiated rate, after proper petition, the Commission would consider ordering the arrearage payment to continue at a more expedited pace at a higher surcharge rate.

Navitas KY is to keep the proceeds of the surcharge account in a separate account and reimburse B&W on a monthly basis along with Navitas KY's payment to B&W for gas transportation service. Additionally, Navitas KY should file an annual report with the Commission that reconciles the monthly proceeds and payments. For any over or under collection at the end of the surcharge period, Navitas KY is to file with the Commission the manner in which the balance is either to be collected from or returned to its customers.

IT IS HEREBY ORDERED that:

1. The rates proposed by Navitas KY are denied.
2. The surcharge, as set forth in Appendix A of this Order, is approved as fair, just, and reasonable for the return of the arrearage arising from the Stub Period for July 1, 2020, through June 30, 2030.
3. Navitas KY shall deposit the proceeds from the surcharge in a separate, interest-bearing account, and such proceeds shall be reimbursed to B&W. The approved surcharge shall be added to the \$2.7172 FERC-approved gas transportation rate and be remitted to B&W monthly.
4. Navitas KY shall file with the Commission an annual reconciliation of the monthly surcharge collections and reimbursement on or before March 15 until the end of the surcharge period approved in this Order.
5. Documents filed pursuant to ordering paragraph 4 shall reference the case number and shall be filed in the post-case correspondence file.

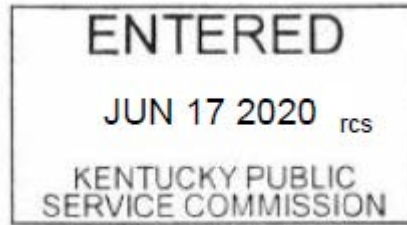
6. If Navitas KY and B&W enter into negotiations regarding the FERC-approved maximum transportation rate, then Navitas KY shall report to the Commission any agreement reached within 20 days of the date any agreement is executed.

7. Within 20 days of the date of entry of this Order, Navitas KY shall file with the Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the surcharge rate approved herein and reflecting the effective date and that it was authorized by this Order.

8. The case is closed and removed from the Commission's docket.

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By the Commission



ATTEST:



Deputy Executive Director

Case No. 2019-00430

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2019-00430 DATED JUN 17 2020

Surcharge per Mcf: Effective July 1, 2020–June 30, 2030

Residential	\$0.24
Commercial	\$0.24

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